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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/048,084	01/24/2002	Ananthanarayan Venkateswaran	AA414M	1661

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EXAMINER	
LAMM, MARINA	
ART UNIT	**PAPER NUMBER**
1616	5

DATE MAILED: 03/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/048,084	Applicant(s) VENKATESWARAN ET AL.	
	Examiner Marina Lamm	Art Unit 1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-14 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-14 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claims 1-14 are pending in this application filed 1/24/02.

Priority

1. An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification of in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)). The specific reference to any prior nonprovisional application must include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

> The oath or declaration is defective because: It claims the benefit under 35 U.S.C. §119(e) to PCT/US00/20662 application and identifies this application as a US provisional application. Further, the PCT/US00/20662 application claims priority to PCT/US99/17163 application. The instant declaration does not claim priority to the latter application.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3 and 8-14 are rejected under 35 U.S.C. 102(a) as being anticipated by Mitsumatsu (WO 99/13833) supplied by the applicant.

Mitsumatsu teaches hair care compositions such as conditioner, treatment, mousse, etc., containing the claimed amounts of cetyl hydroxyethylcellulose (e.g. POLYSURF 67), high melting point fatty alcohols (e.g. cetyl, stearyl and/or behenyl alcohol), lauryl methyl gluceth-10 hydroxypropyl-dimonium chloride, polyoxyethylene glycol, silicone emulsion and pentaerythriol tetraisostearate in an aqueous carrier. See Examples 12 and 14 on pp. 54-55. With respect to Claim 13, Mitsumatsu teaches mixing fatty alcohols and emulsifiers with aqueous carrier at temperature of above 60^0C. After cooling down to below 50^0C, the remaining components (including cetyl hydroxyethylcellulose) are added. See p. 51, lines 5-32. The method of Claim 14 is inherent in the reference because the reference teaches the same compositions as claimed in the instant claims.

Thus, Mitsumatsu teaches each and every limitation of Claims 1-3 and 8-14.

5. Claims 1-3 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by either Coffindaffer et al. (WO 92/16187), supplied by the applicant, or Murray (WO 95/24180).

Coffindaffer et al. teach hair styling/conditioning rinse compositions containing the claimed amounts of cetyl hydroxyethylcellulose, cetyl alcohol, stearyl alcohol, and stearyl trimethyl ammonium chloride in an aqueous carrier. See Example XV on pp. 62-63. The

method of Claim 14 is inherent in the reference because the reference teaches the same compositions as claimed in the instant claims.

Murray teaches hair conditioning compositions containing the claimed amounts of cetyl hydroxyethylcellulose, high melting point fatty compounds (e.g. hexadecanol, octadecanol, paraffin wax and glycerol monostearate), and cetyl trimethyl ammonium chloride in an aqueous carrier. See Example 4 in Table 1 on p. 5. The method of Claim 14 is inherent in the reference because the reference teaches the same compositions as claimed in the instant claims.

Thus, either Coffindaffer et al. or Murray teach each and every limitation of Claims 1-3 and 14

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsumatsu.

Mitsumatsu applied as above.

The reference also teaches that the compositions may contain cationic cellulose polymers of Claim 4 (e.g. Polyquternium 24), polypropylene glycols of Claim 5, hydroxyethyl cellulose and other rheology modifiers of Claim 6, and amidoamines in combination with an acid of Claim 7. See p. 19, line 22 – p. 20, line 11; p. 24, lines 5-24; p. 47, lines 13-30; p. 50, lines 7-12.

Although Mitsumatsu does not exemplify the claimed combination of ingredients (a), (b), (c), (d) of the instant claim 1 with cationic cellulose polymers, polypropylene glycols, rheology modifiers or amidoamines, it fully discloses all the elements of the instant invention.

It would have been obvious to one having ordinary skill in the art at the time the claimed invention was made to employ cationic cellulose polymers and/or amidoamines in the compositions of Examples 12 or 14 of Mitsumatsu for their art-recognized purpose and with a reasonable expectation of beneficial results such as additional hair conditioning effect as suggested by Mitsumatsu. It would have been obvious to one having ordinary skill in the art at the time the claimed invention was made to employ polypropylene glycols in the compositions of Examples 12 or 14 of Mitsumatsu for their art-recognized purpose and with a reasonable expectation of beneficial results such as imparting a soft and moist feeling to the hair as suggested by Mitsumatsu. It would have been obvious to one having ordinary skill in the art at the time the claimed invention was made to employ hydroxyethyl cellulose or other rheology modifiers in the compositions of Examples 12 or 14 of Mitsumatsu for their art-recognized purpose and with a reasonable expectation of beneficial results such as imparting gel-like viscosity to the compositions as suggested by Mitsumatsu.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murray.

Murray applies as above.

The reference also teaches that the compositions may contain thickeners such as hydroxyethyl cellulose. See p. 4, line 20; p. 5, Table 1, Example 3.

Although Murray does not exemplify the claimed combination of ingredients (a), (b), (c), (d) of the instant claim 1 with hydroxyethyl cellulose, it fully discloses the instant invention.

It would have been obvious to one having ordinary skill in the art at the time the claimed invention was made to employ hydroxyethyl cellulose in the composition of Example 4 of Murray for its art-recognized purpose and with a reasonable expectation of beneficial results such as thickening of the compositions.

Therefore, the invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5,853,707; US 5,916,967; US 5,916,548.

10. No claim is allowed at this time.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Lamm whose telephone number is (703) 306-4541. The examiner can normally be reached on Monday to Friday from 9 to 5.

The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

ml
3/15/03

JOSE G. DEES
SUPERVISORY PATENT EXAMINER
1616